XII

CAUSES OF THE AMERICAN REVOLUTION

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XII

CAUSES OF THE AMERICAN REVOLUTION

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THE CAUSES OF THE AMERICAN REVOLUTION.[1]

"When in the course of human events it becomes necessary for one people to dissolve the political bands which have connected them with another, and to assume among the powers of the earth the separate and equal station to which the laws of nature and of nature's God entitle them, a decent respect to the opinions of mankind requires that they should declare the *causes* which impel them to the separation."—*Declaration of Independence.*

It is the purpose of this monograph to review the final and efficient causes leading to the American Revolution, involving an inquiry into the leading features of the controversy between Great Britain and her American colonies which led to the independence of the United States.

The separation of the English colonies in America from all allegiance to the British Crown was an event of the highest moment in human history. The dissolution of all political connection between those colonies and the State of Great Britain not only recorded the rise of a new nation among the nations of the world, but it marked also the dismemberment of the British Empire and thus put an end forever to the political unity of the English race. It was this event which Lord Brougham called "the most important in the history of the human species."[2] "By that revolution," says Green, "the English nation was divided. It was still one race but two

[1] This historical study is a University Extension lecture elaborated.—Ed.

[2] *Political Philosophy*, Vol. III, p. 329, cited by Frothingham.

nations, an instance where to divide was to multiply and with that event Anglo-Saxon civilization entered upon the conquest of the world."[1] This great movement marked the beginning of colonial revolts which continued until all the American dependencies of European monarchies had become independent republics; it changed the whole theory of the relation of colonies throughout the world to the mother country;[2] and it was the beginning of the first realization in history of the federal republic on an imperial scale,—a polity which presents a combination of local self-government and centralized power unprecedented in the records of political experience.

The causes of revolutions, of such momentous changes, are far-reaching, as far-reaching as the history of nations. When Mr. Greely began to write the history of "The American Conflict"—meaning the Civil War between the States, from 1861 to 1865—he began with the settlement of the country at Plymouth and Jamestown, and he deemed it important to trace the beginnings of nationality and union in the struggles of the Continental Congress. Mr. McCarthy in his late history of the French Revolution quotes Lord Beaconsfield as saying that there have been "only two events in history, the siege of Troy and the French Revolution." The Tory Premier meant, it is supposed, that all events of ancient history were the outcome of one of these, and all events of modern history were someway connected with the other. The paradoxical phrase is used to remind us that if we "trace any single event back step by step," as Mr. McCarthy says, "we will find the event of yesterday intimately and indissolubly connected with the creation of the world." To find a starting point for the cause of a great historical movement is, more or less, an arbitrary matter.

We fix the starting point for the study of the American Revolution at 1763. Here we find a turning point not only

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[1] Green's *History of the English People*, Vol. IV.
[2] Ludlow's *War of American Independence*, p. 2.

in the history of America, but in the history of the world. That memorable year is the natural eminence on which the historical student may find a point of view for looking backward over a century of conflict for empire in America and for looking forward over the development from dependent colonies of an independent republic of federated States. One great movement is closed, another begins.

The year 1763 marks the close of the Seven Years War, the first of the great European Wars which found its causes in America. Some appreciation of the causes and outcome of that great war, of the great changes which it wrought in the map of the world and in the political relations of the nations of Europe, is essential to an understanding of the revolution which it presaged and introduced. The war marked the close of the great struggle between England and France for territory in America. That long struggle was a part of another Hundred Years War between those two great nations. From the accession of William III, 1689, until Wellington sheathed his sword at Waterloo in 1815, in that period of a century and a quarter, England and France were continuously at war for sixty-four years.[1] For those great wars there were three distinct causes: 1. At the beginning of the period—following 1700—England went to war to vindicate her revolution, to secure the maintenance of her ancient constitution and to resist the efforts of France to upset the balance of power in Europe. The Bourbons were seeking the Spanish throne. 2. At the end of the period—just before and following 1800—the French revolutionary influences and the ambition of Napoleon provoked the great European wars of that age. 3. But in the long interval between these historic contests the abiding cause for that century of war was the fact that France and England were rivals in the struggle for dominion beyond Europe, and especially in America.

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[1] Caldecott, *English Colonisation and Empire*, p. 34. University Extension Manuals.

At the close of the 17th century France was at the summit of her power. She was inheriting the colonial kingdoms prepared for her in the age of Colbert, the great Colonizer of France. When we look to the advancement of political power, to the enlargement and glory of the state, the name of Colbert is easily first of his age in France, though his was an age and France was a land remarkable for their great array of great names. No other minister in Europe than Colbert ever made colonization so distinctively a part of his policy; no other ever evolved colonizing plans so sagacious and far-sighted. He increased the navy of France within twenty years from 30 to 176 ships; he saved from waste and corruption sixty millions of the nation's revenue. Colbert was the great organizer of peace for France, as Louvois was her great organizer of war.[1] By 1690, through Colbert's influence, the French, besides their well grounded hope of Empire in India and their power in Cayenne and the West Indies, had, in North America, Canada, Acadia, Cape Breton Island, the Fishing Banks of New Foundland, the mouth of the Mississippi and inland Louisiana. France held North America by its two rivers, the Mississippi and the St. Lawrence.[2] Such another age, another Colbert and another La Salle instead of the shameful and imbecile régime of Louis XV, and how changed might have been the history of the Western world. But ministerial government and great men were to arise upon the other side of the Channel. The humiliating age of Louis XV, in France, was also the age of Walpole and Pitt in England. When Pitt came to power in 1757, the fact moved Frederick the Great to say that "England had at last brought forth a man." It was the genius of Pitt that sustained the English colonies in America during the Seven Years War, and won for England the treaty of Paris in 1763 with its tremendous results.

This was the most important Treaty in its effects upon the state life of Europe since that at Westphalia, which established

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[1] Duruy's *History of France*, p. 425. [2] Duruy, *History of France.*

the balance of power among modern nations. It marks an epoch in universal history. Three of the many victories of the War which it closed are said to have "determined for ages to come the destinies of mankind."[1]

At *Rossbach*, in the victory of Frederick the Great, began the recreation of Germany and the long process of German unity under the leadership of Prussia.

At *Plassy*, in the victory of Clive, the influence of Europe upon the nations of the East was brought to bear more powerfully than since the days of Alexander the Great.

At *Quebec*, in the victory of Wolfe, began the history of the United States.

Thus we are led to observe the different distinct results of the war as seen upon the four leading nations of Europe:

Austria was humbled. She was compelled to accept a rival in the affairs of the German States. The scene opened which closed at Sadowa and Sedan in 1866 and 1871.

Prussia was advanced. In this struggle it was the office of Frederick the Great, to place in the front rank of nations the power which had first been welded into an effective force, if not created out of hand, by the Great Elector. The Hohenzollerns became the equal rivals of the Hapsburgs and German unity began under Protestant hegemony.

France was humiliated. In the Seven Years War and by the terms of the Treaty which closed it, France had lost her merchant and military marine, her hopes of Empire in India had departed, she surrendered Canada to England and Louisiana to Spain, and retired from the Continent of North America. "Dupleix and Montcalm had aimed at building up an Empire," says Green, "which would have lifted France high above her European rivals. The ruin of these hopes in the Seven Years War was the bitterest humiliation to which French ambition had ever bowed."

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[1] Green's *Hist. of the Eng. People*, Vol. IV.

England is exalted. She wins for the first time her world empire. For the first time in her national history the "drum beat of the English reveillé followed the sun in his course around the world;" for the first time the sun never set upon English dominions. The war gave to England, India, America, and the Sea. Frederick II said: "The war began over a few miserable huts; by it England gained 2000 leagues of territory and humanity lost a million of men."

But it is especially important for our purpose to observe the effect of the Treaty on territorial re-adjustment in America. As to English America the War may be said to have brought her into being. Before the War the fringe of English colonies on the coast was like the string to a bow. The French were asserting their claims to the great inland arc. Before the War the imperial domain of France reached from the Gulf to the Arctic, from the Alleghanies to the Rockies. By the terms of this great Treaty,

Canada was ceded by France to England.

Louisiana was ceded by France to Spain.

Florida was ceded by Spain to England.

In two cases France lost; in two cases England won, and there had occurred one of the greatest concessions of territory in the history of war and diplomacy. The great re-adjustment seems to justify the remark of Dr. W. F. Poole that the Treaty of 1763 marks perhaps the most important epoch in the political and social history of North America.[1] As to the immediate effect of the Treaty on the colonies, we see that France had departed from their north side and Spain had departed from their south side. The colonists were no longer between the upper and the nether millstone. "America was English"[2] says Lecky. Thus the Seven Years War furnished the opportunity and prepared the way for the American Revolution. The War at once closed one great movement and

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[1] Winsor's *Narrative and Critical Hist.*, Vol. VI, p. 685.

[2] *History of England in the 18th Century*, Vol. III, ch. on America.

made straight the path of another. In consigned America to English civilization; it laid the foundation for an independent sovereignty in America. "By removing an enemy," says Green, "whose dread had knit the colonists to the Mother country, and by breaking through the line with which France had barred them from the basin of the Mississippi, Pitt laid the foundation of the great republic of the West." The War and its results had prepared the colonies for the Revolution and for independence by the martial training which it afforded, by revealing to them the necessity of union, by releasing them from the dread of the French and by thus breaking their feelings of dependence. It also opened to their minds the possibility of a westward movement. The subsequent attempt of the English Board of Trade to confine the western extent of settlement to such a short distance from the sea as would be convenient for English commerce, thus restraining the natural interior expansion of the colonies, was one of the incidental causes of irritation and separation.[1]

Before entering upon the merits of the controversy by which the separation of the colonies from the Mother country occurred let us notice, in connection with the results of the Seven Years War, that independence and separation were not an unexpected political event. The language of Choiseul, the French minister, after the Treaty of 1763, is familiar. Speaking of the relation of the colonies to England, he said, "They stand no longer in need of her protection. She will call on them to contribute towards the burdens which they have helped to bring on her, and they will answer by throwing off all dependence." Higginson says this observation was probably an after thought upon the part of Choiseul; it was not uttered until ten years after the Treaty.[2] But Choiseul

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[1] See Proclamation of George III, October 7, 1763, and Report of Lord Commissioners for Trade and Plantations, 1772. Winsor's *Narrative and Critical History*, Vol. VI, p. 687.

[2] Higginson's *History of the United States.*

was not alone in his predictions of independence. Kalm, a Swedish traveller, said as early as 1748: "The presence of the French in Canada, making the English colonists depend for security on the mother country is the main cause of the submission of the colonies." Montesquieu the French political philosopher said, as early as 1730, in speaking of the restrictive measures of the English commercial code, "England will be the first nation abandoned by her colonies." Turgot, the great statesman and economist of France had also remarked, that the *colonies* were like fruit, "When they are ripe they will drop from the stem. When the colonists are ready they will do as Carthage did, set up for themselves."

It has been supposed, therefore, from the point of view of these expressions, that it was the manifest destiny of the colonies, when the fulness of time had come, to become an independent nation; though there had been no overt causes to precipitate the change, the natural and assured development of the colonies in the course of human events would have been sufficient. Of that we do not know. The patriotic loyalty to the Empire at present observed among the English dependencies throughout the world; what history tells us of the devotion to the mother country among the American colonies before our revolution; the present commercial policy of England and the liberal administration of her colonial affairs to-day—these do not indicate that the dismemberment of 1776 would have occurred in any usual order of events. It is expected of the historical student of this period, and it is the next purpose of this essay, to consider the direct and immediate causes of the revolution, those peculiar to the time and situation of the colonies, which account for the separation.

Incidental to this study it is important to understand the fundamental idea in the modern colony. *Colony* is an ambiguous term. "The Phoenician Colonies," says Prof. Goldwin Smith, "were factories; the Roman colonies were garrisons, the Spanish colonies were gold mines worked by slaves; and the Greek cities founded new cities but the

counterparts of themselves."[1] Professor Seeley in his valuable book "The Expansion of England" has called attention very pertinently to the distinct ideas or the basis of colonies among three great historic colonizing nations, the Greeks, the Romans and the English.[2] The Greek idea in the first place was that a colony was a commonwealth. To the Greek the state—the *polis*, the city state—was essentially small. It could grow territorially only by the formation of new states. Therefore to form a new colony was to form a new state. The colony might be attached to the mother-stem, might be allied with it, might have affection for it, but did not belong to it and was not controlled by it. Corcyra was a colony and Corinth was a mother city, but Corcyra was one state and Corinth was another. The tie between them was only a sentimental one. To assert control over a colony, as Athens did over certain colonies in the Delian Confederacy, was to destroy autonomy and to be guilty of tyranny and usurpation. It was this extreme tendency toward state sovereignty in the city which prevented the discovery to the Greek of the modern American principle of the Federal Republic. As Prof. Seeley has represented it, these Greek colonies were like grown up children who have married and settled in another homestead. A new Greek colony brought the world a new Greek State.

Contrast with this the Roman idea of a colony. In the Roman conception—a conception which prevailed during mediæval times—the colony was a province to be ruled. It was an investment for the sake of gain; it was a piece of property to be worked for the benefit of the investor. The theory subordinated the privileges and interests of the colonists to those of the mother country. The colony is to be held and administered for what can be made out of it; its land is to be tilled, or developed, or colonized, or sold, or taxed, or drained of its wealth, as the interest of the home state may

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[1] *Lectures on the Study of History*, p. 185.

[2] Seeley's *Expansion of England*, ch. on the "Old Colonial System."

dictate. This condition the colonists would endure only because they could not cure.

Compare with these conceptions the modern or English idea of a colony, which is merely an extension of the mother state; it is the state enlarged. It is a recognized part of the original body politic. It is a part of a common empire and its people enjoy all the rights, privileges, immunities, and liberties pertaining thereto. This has been the happy condition of all English colonies since the American Revolution,—*since* but not before.

Now, it is to be remembered in this connection, that while the American colonists enjoyed all the rights, privileges, immunities and liberties of Englishmen, while they were treated as a mere extension of the mother state, while the true modern English theory of the colony was applied to them, they were loyal subjects of the Crown. But to the degree that they were treated as a province to be ruled externally, as a piece of property to be worked for investors, in as far as the Roman or mediæval theory of the colonies was applied to them, to that degree they tended to separation. To see the truth of this, and its application to the state of the colonies, it is only necessary to consider a few facts which are usually and very properly regarded as indirect causes of the war.

1. The attempts of the royal governors at arbitrary rule in America and the contest and irritation arising over the question of the royal prerogative.

2. The *commercial restrictions* by the English Navigation Acts and Laws of Trade, together with their effects upon colonial interests.

It is considered that the contest over the prerogative of the royal governors in America and the attempts of these governors, on occasions, to exercise arbitrary rule, were long standing and efficient causes of the alienation of the colonies from the mother country. The policy of arbitrary government and enlarged prerogative sprang from the purpose of making the colonies serviceable to England. This, in the

mind of the Englishman, was the only purpose for which the colonies existed.[1] But this service from the colonies was to be secured in disregard of the interests of the colonies. Notice as illustrative evidence of this the government of Andros in New England. In 1685, Andros came to America with the intention of depriving certain colonies of their charters; he came to consolidate New England, not for the benefit of New England, but directly in opposition to her desires, and rather for the benefit of Old England, that the colonies might more easily be governed and ruled in the interest of English trade. The colonies resisted, and they resisted on the same ground which their sons maintained nearly one hundred years later, claiming for themselves the ancient and inalienable rights of Englishmen, that these were guaranteed by their charters, and denying the right of the mother country to interfere in the internal affairs of the colonies. If there had been 2,000,000 people in America in 1685 instead of 200,000 it has been thought reasonable to say that the American Revolution would have occurred a hundred years sooner.

The significance of the conduct of Andros is that it was in large measure representative. For a hundred years before the outbreak of the Revolution there were contests, more or less important, between the power of the royal governors and the popular colonial party in the Assemblies. On the question of prerogative and anti-prerogative came the first political contest of the Revolution.[2] From this period, 1683, says Minot, "we may date the origin of the two parties,—the patriot and prerogative men—between whom controversy scarcely intermitted and was never ended until the separation of the two countries."[3] It is not pertinent at this point in our consideration of our subject to enter into the controversy over the extent of the

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[1] Burke's speech on *Conciliation with America*, p. 190, Vol. I, Works.

[2] *The Revolution Impending*, Mellen Chamberlain in Winsor's *Narrative and Critical Hist. of the U. S.*, Vol. VI, p. 3.

[3] Minot's *History of Mass.*, I, 51, cited by Frothingham.

prerogative of the King or of the power of Parliament in the colonies. We shall consider the legal relation between the two countries in a later aspect of the controversy. It is however worth noticing here that one of the remarkable defects of the early charters was, that they did not clearly define the limit of rights between the local government and the Crown. The Constitution of the colonies invited abuse on the one hand and aggressions upon the other. The abuses of which the colonists complained were the repeated attempts, on the part of royal authority, to revoke or override their charters; the frequent efforts at remodelling their local governments with a view to checking popular power; enlarging the powers of the Board of Trade; the assertion that representative government in the colonies was a privilege, not a right, to be retained only at the discretion of the royal authority which had conferred it; and the persistent policy of the home government toward rendering the colonial governors and judges independent of the Colonial Assemblies.[1] It is not probable in the contests continually arising, that the governors were always wrong and the Assemblies were always right. The notable fact is that the steady aim of the governors was to check the growth of popular powers, and that the purpose of the Assemblies was to stand for what they deemed their constitutional rights. The important fact to be noticed is that the prerogative and power of the King and their gubernatorial assertion were a continual source of restiveness and irritation to the colonies. The character of their governors, as a rule, made them unacceptable to the Americans. The colonists looked upon the governors, as Franklin represented, not like rulers whose posterity have an inheritance in the government of a nation, and therefore an interest in its prosperity; they were generally strangers to the provinces they were sent to govern; had no estate, natural

[1] See Frothingham's *Rise of the Republic*, ch. IV, for a valuable consideration of the causes of the conflicts between the royal governors and the colonists in the desire of the latter for local self-government.

connection or relation there, to give them an affection for the country; they came only to make money as fast as they could; they were sometimes even of vicious characters and broken fortunes, sent by a minister merely to get them out of the way; as they intended staying in the country no longer than their government continued, and purposed to leave no family behind them, they were apt to be regardless of the good will of the people, and they cared not what was said or thought of them after they were gone.[1] This is what the Americans said of their governors. They were governors neither of the people nor for the people whom they were sent to govern; and when the first crisis of the Revolution came, it is not surprising that the conviction was found firmly imbedded in the minds of the Americans, that if duties were to be forced upon them to support these governors and their governments, without the intervention of their Assemblies, the Assemblies would soon be looked upon as useless. Therefore, in resisting the unconstitutional interference of the King and his governors, or in their invasions on the prerogative, if one chooses so to call it; in their effort to keep their governors and judges dependent on popular favor and support and thus keep the real power in administration in the hands of the people—in this contention the colonists felt that they were standing for their dearest and most essential rights. The right to a representative government was in issue. It was this party conflict and the antagonisms which it aroused, which account for many of the indictments against the King in the Declaration of Independence: "When a long train of abuses and usurpations, pursuing invariably the same object evinces a design to reduce them under absolute despotism, it is their right, it is their duty, to throw off such government, and to provide new guards for their future security." For specifications the signers of the Declaration recited that the King had refused his assent to laws the most wholesome for the public good; he had for-

[1] Franklin's *Causes of American Discontents*, Works IV, pp. 247–8.

bidden governors to pass laws of pressing importance; he had refused other laws for the accommodation of the people unless the people would relinquish their right of representation; he had repeatedly dissolved Representative Houses for opposing royal invasions on popular rights, and he had attempted to make governors and judges dependent on his will alone for their tenures and their salaries."[1]

The advocates of the American cause in the issue between prerogative and popular rights were not confined to America, and it is therefore true, in a measure, that it was a conflict not between two peoples but rather between two parties.[2] When the occasion arose in the contest over taxation, after the colonists had grown strong and deemed that important material interests were at stake, it became the part of the Americans to make a new assertion and a wider interpretation of the principles of the party opposed to the prerogative—an interpretation which they made convenient to their circumstances and the necessities of their cause. This they could do because they were found possessed with a political faith which had come as the result of a political experience. This faith was the basis for their resistance, and thus it was that the experience of the colonists in their contests over the prerogative and in their resistance to arbitrary rule were a cause and a preparation for the Revolution. They were ready with a constitutional defense for their resistance to an innovation.

The second indirect cause of the war which we have named, was the commercial restrictions upon the colonies. In these, says Lecky, the great historian of *England in the Eighteenth Century*, the colonists had a "real and genuine grievance."

Cromwell by the Navigation Laws began, in 1651, the establishment of the English empire of the sea. It was these laws, combined with Colbert's tariffs against the Dutch, which de-

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[1] *Declaration of Independence.*

[2] Chamberlain, *The Revolution Impending*, Winsor's *Narrative and Critical Hist.*, Vol. VI.

stroyed the carrying trade of Holland, and gave England in commerce the first place among the nations of the world. The colonial policy of the century following Cromwell was one of restriction. The spirit of Mercantilism was dominant in the public mind. This economic theory taught that wealth was identical with money, and that every nation should so conduct its business as to import little and export much, that economic success depended upon attracting and holding as much as possible of the precious metals; that the Minister should secure for the state, at the price of high duties, prohibitions, subsidies and bounties, if need be, the "balance of trade" between nations.[1] It was an age of great national competition. The mercantile spirit was dictating the conduct of every nation in Europe towards its colonies. Every European power which had colonies in the western world, confined the trade of the colonies to the mother country.[2] This practice became, within the century, a recognized principle of conduct among the nations. By the International Rule of 1756 the doctrine was formally announced that trade with colonies was the exclusive privilege of the subjects of the mother country.[3] This England enforced in colonial times, allowing neither the colonies nor any other nation the benefits of gains from American trade. It was English adherence to this rule which brought on the commercial complaints preceding the War of 1812. Its application was tolerable, at least it was tolerated, in the 18th century, before the new age of modern neutrality and before the light which Adam Smith furnished to Economic philosophy had been given to the world. But as applied by England to her colonies it may properly be called a reversion to the Roman theory of colonization, the use of colonies, at whatever commercial injury to *them*, for the profit of the home government.

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[1] Ingram's *History of Political Economy*, "*Mercantilists*."

[2] Tucker's *Four Tracts*, p. 133, cited by Lecky, *England in the 18th Century*, Vol. III, p. 327; see also Adam Smith's *Wealth of Nations*, Book IV, ch. VII.

[3] Sir Henry Maine, *Lectures on International*

It gave over the colonies to the use of a few Englishmen incorporated in the trade companies of the realm.

It is well enough to mention the fact that England, in this policy, was acting in harmony with the prevalent economic opinion of the day and in harmony with the commercial policy of other nations. Whatever of apology or palliation is to be found in this should have ample consideration, as Lecky urges. But as this great historian asserts, "when every allowance has been made, it is undoubtedly true that the commercial policy of England had established a real opposition of interest between the mother country and her colonies; and, if the policy which was the proximate cause of the American Revolution was chiefly due to the King and to the landed gentry, the ultimate cause may be mainly traced to the great influence which the commercial classes possessed in British legislation. The expulsion of the French from Canada made it possible for the Americans to do without English protection. The commercial restrictions alone made it their interest to do so. If the 'Wealth of Nations' had been published a century earlier, and if its principles had passed into legislation, it is quite possible that the separation of England and her colonies might have been indefinitely adjourned."

It is not necessary to trace in detail the trade restrictions by which the colonists were embarrassed. But from Cromwell, 1651, to Grenville, 1763, we find a constant and persistent series of measures restricting the trade of the colonies:

The colonists were confined to the British dominion for their market. Their tobacco, cotton, silk, coffee, indigo, skins, sugar, and rice, were cut off from all natural course to foreign nations. The English planters interested in their sugar colonies wanted a monopoly of the American market for their sugar and molasses. But they were not willing to take in exchange the timber and other natural products which the Americans had to sell. The merchants expected the cash. The French West Indies, were offering both a supply of sugar and molasses, and a market for New England lumber. Here was a natural avenue for a

beneficial trade. But the English Navigation Act of 1733 imposed a prohibitory duty on sugar and molasses, imported into any of the British plantations from any foreign colonies. Nothing was left to the Americans but ruin, or smuggling violations of the law.

The colonists could carry no goods from Europe to America which had not first been landed in England. The whole American people were forbidden to import directly any wine, oil, or fruit, from Portugal. To obtain these goods the Americans had to take them loaded with the expense of a voyage three thousand miles around, having to be landed first in England to be reshipped for America, expenses which added at least 30 per cent. to their cost; and all this merely that a few Portuguese merchants in London may gain a commission on those goods passing through their hands.[1]

All forms of colonial manufactures which could possibly compete with England were crushed.

In the interest of the English woolen manufactures, the colonists were not allowed to carry woolens to any foreign country, nor from colony to colony.

In the interest of English sugar planters, as we have seen, the importation of sugar and molasses and rum from the French West Indies was forbidden.

For the sake of a few merchants carrying on trade with Virginia, the colonies were drained of their gold and silver coin by their remittance to England, and then were forbidden the use of paper money made necessary by their internal commerce.[2]

South Carolina and New Hampshire attempted to restrict the slave trade for the sake of the social welfare, and their acts were overruled by the Crown,—a representative veto indicating that every act of a colonial legislature curtailing any branch of English trade was to be overruled.

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[1] Franklin's *American Discontents*, Works, IV, p. 250.
[2] *Ibid.*

Thus "the interest of a small body of British tradesmen or artificers," says Franklin, "has been found to outweigh that of all the King's subjects in the colonies." There cannot be a stronger natural right than that of a man's making the best profit he can of the natural produce of his hands, provided he does not thereby hurt the state in general. Iron is to be found everywhere in America, and the beaver furs are the natural produce of that country. Hats and nails and steel are wanted there as well as here. It is of no importance to the common welfare of the Empire, whether a subject of the King obtains his living by making hats on this or on that side of the water. Yet the hatters of England have prevailed to obtain an act in their own favor, restraining that manufacture in America in order to oblige the Americans to send their beaver to England to be manufactured, and to purchase back the hats loaded with the charges of a double transportation. In the same manner have a few nail makers, and a still smaller body of steel makers prevailed totally to forbid by an act of Parliament, the erection of slitting mills or steel furnaces in America, that the Americans may be obliged to take all their nails for their buildings and steel for their tools from these artificers under the same disadvantages.[1]

In view of these things it does not seem unreasonable to say that to release labor and trade from their restrictions was the object of the Revolution. So important has this appeared to writers on this chapter of our history that it has been said that "but for the policy which oppressed the commerce and inhibited the use of the waterfalls of New England, the dispute would have been left to posterity."[2] Webster said a half century later, "Whoever has looked deeply into the causes which produced our Revolution has found the original principle far back in this claim on the part of England to monopolize our trade and a continued effort on the part of the colonies

[1] Franklin's *Causes of American Discontent*, Works, Vol. IV, p. 251.
[2] Sabine's *Royalists of the Revolution.*

to resist or evade that monopoly."[1] In this cause we can easily account for the fact that the revolutionary spirit, the opposition to the home government, was stronger in New England than in the South. That discontent was more general in the North was in consequence of the greater trade of New England.

It appears very evident, then, from the character of the people in the colonies, from their situation far distant from the seat of government, from the ignorance of Englishmen of colonial interests and affairs, from the jealousy of the colonies of their political and constitutional rights, from their repeated and irritating conflicts against the prerogative of their royal governors, and, especially, from the burdens of the commercial system,—from consideration of all these it is clear that not much was needed in the way of a fresh quarrel to excite serious danger of resistance to authority. If while the colonies were growing stronger their grievances grew heavier, if any act, or policy, of government should occur to provoke serious opposition among the Americans, it is easy to see that a strain would be put upon the attachment of the colonies to the mother country beyond what loyalty to the empire would endure. The need of the hour in England was a statesman in control, with tact enough to know how far government might safely go. A little more, and self-interest would get the better of English patriotism within the colonies. This is exactly what happened. To the subject of this new quarrel, which lack of statesmanship provoked, and which seemed a very little thing in the beginning to the ruling Englishmen of that day, we come now to give attention.

It may be said that the restrictive legislation of the commercial code was enacted but not enforced. Measurably so. That may be said to be true until the historic epoch of 1763. The increased importance of America to the mother country led to increased interest of the ministry in American affairs,

[1] Speech on *Early Settlement of New England.*

and, consequently, to a change of policy in the Trade laws affecting the colonies.

It is said that Grenville lost the colonies because he read the American dispatches, which no minister before him had ever done. Previous ministers are reported to have sent out letters addressed, "To the Governor of the Island of New England."[1] But this ignorance of the colonies could not continue. By the increased importance which came to them by the territorial readjustment of 1763, they were now to be looked to as an important source of revenue. England could no longer neglect them nor the ministry be ignorant of them. It was then that Grenville fatuously determined upon three distinct measures which, Lecky says, produced the American Revolution:

1. To enforce the Trade Laws.
2. To quarter in America a part of the British Army.
3. To raise by Parliamentary taxation of America a part of the money necessary for the army's support.

Toward the first of these measures, the enforcement of the Trade laws, the customs officers were ordered to greater vigilance. Smuggling was to be suppressed. It was in this effort to suppress smuggling that the custom house officers in 1761 raised the question in the courts of Massachusetts as to the memorable *Writs of Assistance.* These writs were to be applied for by the collector of customs to enable him, his "tide waiters, land waiters, and all, to command all sheriffs and constables to attend and aid them in breaking open houses, stores, shops, cellars, ships, trunks, and packages of all sorts to search for goods which had been imported without paying the taxes imposed by certain acts of Parliament called the acts of Trade."[2] These acts, says John Adams, had been "procured from time to time for a century before by a combination of selfish intrigues between West India planters and North American

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[1] Higginson's *History of U. S.*, ch. on "British Yoke."

[2] John Adams' "Letter to William Tudor," *Niles Register*, Vol. 14, p. 139.

royal governors. They never had been executed as revenue laws and there never had been a time when they would have been, or could have been, obeyed as such."[1] It was in pleading before the court in opposition to these writs that Otis won his fame, appearing as Adams says, like "a flame of fire." Otis objected to the writs that they were general and not special, and that they were perpetual and not returnable. By a special writ, the only kind that was legal according to the opinion of Otis, the warrant allowed a search of such and such houses specially named by the complainant under oath, with reasons for his suspicions. Every man's house is his castle. But by *general* writs every man's house became subject to inspection; the writs allowed the invasion of any citizen's house by any petty officer or by *any one* who might wish to use the writ as a means of private annoyance. The writs were perpetual in that they were negotiable; they were not temporary to be returned after the supposed occasion for their issue was passed, but might be transmitted by an officer to his successor or to his subordinates. John Adams conceived that the policy which called these writs into use was begun by the British Ministry with the design of "subjecting the colonies to the unlimited authority of Parliament," and he asserts that American independence was born on the day of Otis' eloquent and fiery resistance.[2] In speaking, a half century later, of Otis' speech on this occasion John Adams said, "Then and there was the first scene in the first act of opposition to the arbitrary claims of Great Britain. Then and there the child Independence was born."

In addition to this very questionable method of enforcing obsolete and obnoxious laws the ministry determined upon the renewal of the hateful Sugar Act of 1733, which, if enforced, would have been the most ruinous to the American trade of any part of the commercial code. They also imposed new duties upon many articles. There were some compensations in the

[1] John Adams' Letter to Tudor. [2] *Niles Register*, Vol. 14, p. 140.

new revenue laws, but the stringent measures provided for enforcement were calculated to make the colonists feel that, whereas the fathers had chastised them with whips the ministry were now disposed to chastise them with scorpions. A heavy tax easily avoided was not so irritating as a lighter tax vigorously enforced. The attempt to enforce the Trade laws could but call the attention of the colonists to the discriminations against them, and it was evident that enforcement could be carried only at the expense of a struggle resulting in alienation. Older statesmen than Grenville, men like Pitt or Walpole, would have counseled more wisely. Rehoboam preferred the counsel of the young and foolish, and the tribes rebelled.

The policy of quartering troops in America, the second immediate cause of the war, although objectionable to the Americans had many considerations in its favor. It was reasonable to suppose that the possessions so newly acquired, required defense against the French who were anxious to recover, or against an insurrection of the French colonists who might prove easily dissatisfied with their new masters. The country was very large and thousands of miles of frontier were open to the attacks of the Indians; the late formidable conspiracy of Pontiac was not reassuring; and experience had shown that the colonies were slow and reluctant to contribute to the common defense when they happened to be remote from the scene of immediate attack and danger. Defense against the Indians in Virginia or the Carolinas would receive very little attention and support from New York or Massachusetts. Imperial interests were to be maintained against the rest of the world, the borders of British America were to be enlarged or secured, and these ends seemed to require the presence of an imperial army.

On the other hand, it may be urged very properly, it had not been shown that the colonists were unwilling to raise troops for their own defense in time of danger. No scheme for a common contribution by the colonies toward such defense had ever been earnestly urged by the home government. The

colonists had always defended themselves from the Indians and now that the French arms had been expelled from Canada there was less danger from that source than before. Under these circumstances the colonists suspected that the ministerial policy of sending troops to America, to be beyond colonial control, was designed to strengthen the royal executive against the Assemblies and to enforce the obnoxious regulations of the revenue laws. These considerations, combined with the natural and long standing dislike of the English people to a standing army in time of peace,—a dislike especially noticeable among the descendants of those who had resisted the Stuart tyranny,—these considerations account for the resistance aroused by the quartering policy.

Taxation without Representation.

None of these influences which we have named, nor all of them together, would have caused the revolution. The attempt of England to restrict the operations of the colonial government and extend the royal prerogative, the Navigation Laws and Acts of Trade, the demand for provision for the support of royal governors and judges, the quartering policy, the general fact that England regarded the colonies as so much lucrative property to be administered for her own benefit and not for theirs,—all of these grievances were long standing. Yet, they had brought forth no decisive tendencies to independence, nor had they provoked any serious evidences of disloyalty. It was only after the Seven Years War when England asserted the right of domestic taxation by Parliament that the Americans began to revolve these grievances in their minds, which, "from their respect and love to England they had long borne and seemed almost willing to forget."[1] There is abundant evidence of the loyalty of the colonies to England in 1763. In the English diplomacy of that year the colonial

[1] Franklin's *Causes of American Discontents*, Works, Vol. IV, p. 250.

interests had been safely guarded and for the Treaty of Paris the Americans had great reasons to rejoice. Otis, voicing the sentiment of the colonies, acknowledged the love of all Englishmen in America for the mother country, their pride in the power and glory of the English name, and he asserted that "what God in his providence had united together, no man should dare pull asunder."[1] Franklin testified before the House of Commons in 1766 that the temper of America toward Great Britain at the close of the Seven Years War in 1763, was the best in the world. They submitted willingly to the government of the Crown and paid, in their courts, obedience to the acts of Parliament. The colonies cost nothing in forts, citadels, garrisons, or armies to keep them in subjection. They had not only a respect but an affection for Great Britain, for its laws, its customs and manners and even a fondness for its fashions that greatly increased the English commerce.[2] America was loyal.

It was the new taxing measure of Parliament, the ministerial policy on colonial taxation, which alienated the colonists and led directly to the independence of America.

The Stamp Act.

To understand the merits of the controversy over the Stamp Act is to understand the merits of the American Revolution. "The Stamp Act," says Lecky, "when its ultimate consequences are considered must be deemed one of the most momentous pieces of legislation in the history of mankind."[3] Yet it is well known that this "momentous piece of legislation" passed the English House of Commons without exciting there even a passing interest. It was introduced into an almost empty House. Burke says he never heard a more languid

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[1] Speech, Boston Town Meeting.

[2] "Examination of Franklin in House of Commons," Works, Vol. IV, p. 169.

[3] *England in Eighteenth Century*, Vol. III, p. 351.

debate in the Commons than the one on this measure. "The affair passed with so very, very little noise that in town they scarcely knew the nature of what you were doing," he says.

What was this remarkable act? Was there anything in itself to indicate that its results would be so momentous? It provided that all bills, bonds, leases, insurance policies, newspapers and legal documents of all kinds, should be written upon stamped paper, to be sold by public officers at prices fixed by law. The proceeds were to go into the King's treasury to be applied by Parliament exclusively to the protection and defense of the colonies. Offenses against the act were to be tried in courts of admiralty without the cognizance of a jury. As a revenue measure, barring its denial of a jury trial, it was not unusual or unreasonable. It may be said to be a fair and simple proposition of a sovereign power to tax its subjects. To declare war and peace, to make treaties, to coin money, to administer justice, and to tax,—these are the few fundamental prerogatives of sovereignty. A denial of one of them on the part of the subject is a denial of sovereignty to the nation. Why should loyal subjects of the Crown have denied the sovereign power of taxation to the supreme legislature of England? It was not proposed by any English statesman to tax the colonies for English purposes. All the money raised in the colonies was to be expended in the colonies. In fact the colonists were only asked to contribute one-third of the burden which they imposed upon the Empire. The Stamp Act was not expected to produce more than $500,000 annual revenue while the English army for the defense of America was costing every year nearly a million and a half. Was America to receive all the benefit and England to pay all the bills? Further, we are called upon to consider that an English navy was defending the American coasts and an English debt had accumulated in defense of American interests. Before the war the English public debt was about 350 millions sterling; after the war it was about 700 millions. The debt had been doubled in defense of the colonies. In 1748 at the Treaty

of Aix la Chapelle the civil and military establishment in America was costing only about £70,000 a year. In 1763 after the colonies had been delivered from foreign danger, and in order to secure them against attack from the Indian, the Spaniard, and the French, the same civil and military expenses were costing £350,000. England had made it her chief object to guard the interests of the colonists in the Peace of Paris, and she found her colonial expenses had been multiplied by five. Was it not reasonable, then, that Americans should be asked to bear part of these expenses? Were not the colonists under obligations of honor and law to help bear the burden of their defense and support? Was the demand of the mother country not moderate and equitable?

It rests upon us, also, to remember that as a taxing measure it was never claimed that the Stamp Act was burdensome. Probably no scheme of taxation could have been devised at the time which would have been easier or evener. When Grenville declared his intention of taxing the colonies in 1764, he asked the colonial agents in London to say to the colonies that if they could not agree among themselves upon raising a revenue by their own assemblies yet, if they disliked stamped duties and would propose any other sort of tax which would carry the appearance of equal efficacy, he would adopt it. There is no reason to believe that Grenville had any desire or intention whatever to subject the colonies to tyranny and oppression. Nor is there reason to doubt his willingness to accommodate himself to any tax which would have been most agreeable to the colonies. He did not wish to treat them harshly nor deprive them of any of their rights and liberties. What he was concerned about was to provide in his bill for a reasonable colonial revenue and to make sure of getting it. Was this not the business of the office with which Grenville was charged? It was his duty to manage the revenue. He regretted that his action would excite opposition and resentment in America, but he felt that the colonies could and ought to pay something to the public cause, and he knew of no better

way—he could find no better way by inquiring of the colonists—for raising the revenue. He was aware that the Americans, like all men, wished not to be taxed; but was that a reason why they should be relieved? Was Grenville not justifiable in using whatever just means he found necessary for making sure of a revenue?

It is also evident that a Parliamentary measure was the only means by which he could make sure.

In the year 1764 the colonies were informed through their agents in England that a revenue would be required of them, towards defraying the charge of the troops kept among them. In harmony with this information a resolution was adopted in the House of Commons that for the purpose of raising such a revenue a stamp duty might be necessary.[1] This proposition was not original with Grenville. Nor was it the first time such a proposition had been seriously urged. It was the outcome of hardy experience. In 1739 it had been proposed to Walpole that a stamp tax should be levied in the colonies to raise revenue for defending the western frontier. Walpole rejected the proposition, although there were evident the aggravating difficulties in securing among the colonies co-operative contributions for common defense.[2] Again when war broke out between the French and English in America in 1754, General Shirley, then Governor of Massachusetts, proposed in connection with the discussions of the Albany congress of that year, that application should be made to Parliament to empower a general congress of the colonies to tax the whole according to their several proportions.[3] It appears that this proposition was acceptable to most of the colonies. But the jealousy or backwardness of some of them

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[1] Knox, *Controversy between Great Britain and her Colonies*, p. 198.

[2] At this time it is said Walpole exclaimed: "What! I have half of old England set against me already, and do you think I will have all New England likewise." John Fiske, *Atlantic Mo.*, March, 1888.

[3] Knox, *Controversy*.

prevented this plan from being carried into execution; it was evident that some of the colonies would not come into the congress, nor be bound by its action. This experience clearly proved, to Governor Shirley's mind, that the Colonial Assemblies would not agree among themselves upon a fund for their military defense, and that if such a fund was to be provided for, the only effectual way of doing it was by an act of Parliament. Governor Shirley therefore recommended that Parliament should assess a certain sum on each colony; that it would be advisable to leave to the several colonies the manner of raising the revenue, whether by stamp duty or excise, but that if any colony failed to contribute its share, the sum should be assessed by Parliament and collected by imperial officers. "Thus it appears," says Knox in his *Controversy with the Colonies*, "that too much honor has been done Mr. Grenville in imputing to him the origin of an option that Parliament had a right to impose taxes in the colonies, or raise a fund there to pay the expenses of military services in default of the colonies raising it by their own Assemblies."[1] Grenville now gave the colonies to understand that if they did not make grants in their own Assemblies, Parliament would do it for them. Knox, then under-secretary, represents that Grenville warmly recommended the making grants by their own Assemblies as the most expedient method.[2] In this recommendation

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[1] Knox, *Controversy with the Colonies*, pp. 197–8.

[2] Grenville never made this claim for himself. Burke in his *Speech on Taxation* controverts the assertion made on behalf of Grenville, that he had given the colonies an option for the Assemblies to tax themselves. He says: "Much stress is laid on this fact. However, it happens neither to be true nor possible. Mr. Grenville never thought fit to make this apology for himself in the innumerable debates that were had upon the subject. He well knew that the colony agents had no general powers to consent to it." Burke further asserted that Grenville had let it be understood through a member of Parliament that those who wished to oppose before the ministry the policy of Parliamentary taxation might as well save themselves the trouble of discussion as he was determined upon that point." (See *Speech on American Taxation*, p. 127, Vol. I, Works.)

Grenville was evidently not sincere. He must have known that no such grants were likely to be made and that such a plan for revenue was entirely impracticable. Because, when Franklin on behalf of Pennsylvania suggested to Grenville, after the Stamp Act was proposed but before it was passed, that, in lieu of this Act, the demand for money should be made in the old constitutional way of requisition upon each colony, Grenville answered him, and cut short the discussion, by the forcible question whether the proportion for each colony could be agreed upon. The agents of the colonies knew and confessed that such agreement could not be reached. Grenville also had reason to believe that the requisition would in the case of almost every colony be refused and the demand would be used by the colonists as proof that the Parliament had no right to impose a tax. "Perhaps it might happen," said Knox, "that all the Assemblies could agree in opinion upon some one point, but I much fear that point would not be to *lay taxes upon themselves*."[1] Knox showed very clearly that the difference of the colonies, the experience of the past, the varied interests and purposes which at different times would demand a revenue, the little concern which one colony manifested in any danger when the danger was remote from itself, the dislike of all the colonies to the standing army to which they were expected to contribute,—these considerations proved that if a defense fund was to be raised it must be raised by Parliament. The consent of seventeen Colonial Assemblies could not be obtained. If the colonists were to be taxed at all for imperial purposes Parliament was the only power competent to tax them. This, we may repeat, was conclusive for two reasons: 1. The colonies could not be induced to confide the power of taxation to a single Colonial Assembly. 2. If they could be so induced there was no assurance that the tax would be voted. Was England then to be blamed if she insisted upon a Parliamentary tax?

[1] Knox, *Controversy.*

Moreover, was not the Parliament constitutionally competent to tax the colonies? In the English view, to deny this competency was to deny the supremacy of Parliament over the colonies. If they were to be at liberty to choose what they should pay and how they should pay it, who would doubt that their allowance would fail? On that footing they would, of course, refuse to pay any taxes at all. It would be much better for England, if the constitution would not allow her to tax the colonies, to disclaim all connection with them and refuse longer to continue protection over the colonies all at her own expense.[1] For one hundred and fifty years England had been taxing the colonies in treating them as a part of the Empire. The English tariff of that day against colonial products was undoubtedly a tax, and though the tariff had been arranged for the purpose of regulating the trade with the Empire and not for the purpose of raising a revenue, yet the distinction between a tax for one purpose and a tax for another, between a tax gathered directly and a tax gathered indirectly, was a distinction without a difference recognized by the constitution. The Americans' reasoning that they could not be taxed except by a body where they were represented, especially when it was known that they would refuse representation to avoid the tax,—this reasoning might be applied with equal plausibility to the Navigation Acts and to all legislation for the colonies, and this would tend to the disintegration of the Empire. The deliverance of the colonies from French aggression, which was the cardinal result of the late war, had been an imperial measure carried out for the good of the Empire. Why not pay for this common benefit by a common imperial contribution? What body was constitutionally competent to levy this contribution except the imperial Parliament? If it be granted that Parliament was not superior to but only coordinate with Colonial Parliaments—a position implied by the denial of the constitutional right to tax—where, then, was

[1] Tucker's *Causes of Dispute between the Colonies and the mother country.*

there a supreme imperial body? It was inconsistent to admit that Parliament was such a supreme body for all matters except taxation. Taxation was one of the chief functions of supremacy and sovereignty. To deny the fundamental sovereign power of taxation would lead inevitably to a denial of all sovereign power. Soon the Americans would deny the constitutional right of Parliament to legislate for the colonies —a prediction justified by the sequel. The Colonial Assemblies were municipal not national in character, corporations not Parliaments, and as such subordinate parts of the Empire they should be made to contribute to the imperial revenue. To have to ask consent, to admit that contributions were like voluntary benevolences was to make a breach in the constitution of the Empire, to diminish the authority and sovereignty of Parliament.[1]

The American contention as to the relation of the colonies to the mother country was held by the ministry to be inconsistent and untenable. This relation, as we have said, had never been clearly set forth. The theory on the English side of the controversy was—and no doubt it was the theory which expressed the public mind of that country—that Parliament had an absolute and unrestricted power of legislation over English dependencies. The colonies were corporations within its supreme dominion. Americans were the subjects of the realm, subject to English law. It was from this fact that they were entitled to claim the rights of natural born Englishmen. They could not be out of the realm and relieved of the burdens of the realm and at the same time be entitled to all the rights and immunities of those within the realm. Parliament, the great Assembly of the realm, was the supreme and sovereign source of English law and English rights.[2]

On the other hand the Americans, reviving an early theory of Massachusetts, held that the colonies were like Scotland

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[1] Caldecott, *English Colonization and Empire*, p. 53.

[2] See the argument in Knox, *Controversy*, p. 3, et seq.

before the union; they were bound in allegiance to the King, but were independent of the Parliament. To them the King in Parliament meant the King, in the person of his royal governor, in the Colonial Assemblies. America was not a dominion of England but of the King. England was herself a dominion.[1] The relation of the colonies was to the Crown not to the Parliament.

It is obvious that in these assertions and constitutional dogmas, the colonists could not escape the charge of inconsistency. They had repeatedly and in explicit terms acknowledged the right of Parliament to bind the colonists by its legislation.[2] They had long time resisted the extension of the royal prerogative and now they were found pleading this prerogative against the powers of Parliament. By their reasoning there was no way by which they could avoid a dilemma: "How could they escape out of the hands of the King without falling into the hands of Parliament? If, as some claimed when they resisted the royal prerogative they were British subjects entitled to the same rights and privileges as native born subjects within the realm, why then should they, more than any other subjects, be free from the burdens imposed by the imperial policy? But when in pursuance of that policy, Parliament undertook to tax the colonies, then they were forced by the logic of the situation to claim that, though subjects of the 'best of Kings,' they owed no more allegiance to Parliament than the Scotch did before the union."[3]

Knox, for the English side of the controversy made forcible use of these inconsistent claims of the Americans. He reduced their pleas to two: 1. The colonies had all the rights, liberties and privileges of Englishmen. 2. That they are without the realm, and, therefore, not subject to the common jurisdiction

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[1] Franklin.

[2] Story's *Constitution of the United States*, I, p. 174.

[3] Chamberlain in Winsor's *Narrative and Critical Hist. of America*, Vol. VII, p. 5.

of Parliament. He then very cleverly urged that to make good the first claim was to deny the second. The rights and privileges of Englishmen pertained to those only who were born and inhabiting within the realm, subject to the common law. On this reasoning, the legal argument against the policy of taxation by the plea of a peculiar relation of the colonies to the Crown was rejected by the ministry as inadequate.

These are the main points on which the ministry rested their case for the policy of the Stamp Act. The resistance of the colonies was not only to the Act itself but to the principle which it involved and the policy which it instituted. The Americans were not much moved by the plea of gratitude nor was there reason why they should be. Even if the burden of obligation had been upon the side of America, as it was not, it should have been remembered by English statesmen that gratitude has little place among national motives. The paramount motive among nations is interest. DeGarden the historian of Treaties well says that it is an erroneous calculation in politics to reckon upon gratitude as a force of any value in determining national conduct. But the fact was that befitting gratitude did not require of the colonists that they should submit to the innovation of internal taxation by an external power. In answer to such a plea they could urge as they did that the late war, to the expenses of which on account of an accumulated debt they were now asked to make an extraordinary contribution—this war had not been carried on at the sole expense of Great Britain, nor had the colonies alone reaped the benefit. The colonies had shared in the burden and the mother country had shared the benefit. Every year during the war requisitions were made by the Crown on the colonies for money and men; they made more extraordinary efforts in proportion to their abilities than Britain did; they raised, paid, clothed and fed, for five or six years, nearly twenty-five thousand men. That this was more than the share of the colonies was not only a claim of their own but the claim was recognized by the royal governments and by the

recommendation of the ministry that the colonies be allowed for the years of the war an annual reimbursement to the extent of 200,000 pounds sterling.[1] This reimbursement did not amount to more than two-fifths of their yearly expense. The balance was still resting upon them as a load of debt. To pay these debts the colonists had assessed heavy taxes upon themselves, on all their real and personal property, assessments which they could not hope would discharge their obligations for many years to come. While these burdens continued; while England was restraining the colonies in their commerce and manufactures; while she drained the colonies of all the cash they could procure by every art and industry in any part of the world, thus keeping them always in her debt; and in view of the fact that the colonies had been neglected while they were weak and had grown to strength and opulence almost by their unaided efforts; that they had been planted in America by the oppression and strengthened by the neglect of England;[2] in view of all these things could they be thought unreasonable and ungrateful for opposing new and unusual taxes which they believed to be unconstitutional and subversive of their most valuable rights?[3] The home burdens of the Americans had been increased by the war, and in the face of these burdens it was now, not asked, but demanded of them that they contribute toward the support of an army which they did not want, which, as they felt, their situation did not require, and whose presence they resented as an imputation upon their loyalty. They looked with suspicion upon the army as a device for keeping them in subjection. The troops were not necessary to defend the colonists from the Indians. The colonies had defended themselves when they were weaker and the Indians more numerous. It was only after the Indians had been driven over the mountains that it

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[1] Franklin, *Letter on Gratitude of America*, Works, IV, pp. 157–8.

[2] Barre in the Commons.

[3] Franklin's *Letter on Gratitude*, Works, IV, p. 158.

was thought necessary by the home government to send troops for defense against them.[1] The plea of gratitude to England for the protection which she had afforded fell without much effect.

The fact that all the revenue collected by the Stamp Act was to be expended in America, was not material. It would be spent in the new provinces recently conquered from France where the soldiers were, not in the colonies which furnished the revenue.[2] The tax was distinctly an English tax for English purposes in that its motive was to relieve Englishmen at home and extend English power and English trade abroad. Colonial interests were not in the mind of the ministry either in the assessment or the proposed expenditure of the Stamp Tax.

The first public opposition in America to Parliamentary taxation was made in Massachusetts.[3] In April, 1764, after the declaration by the Commons of intention to tax the colonies, the Boston Town Meeting, in instructions prepared by Samuel Adams, urged their Provincial Assembly to oppose the policy of taxation and assert American rights.[4] This the Assembly did in the resolution that the sole right of giving and granting the money of the people of that province was vested in them as their legal representatives; that the imposition of duties and taxes by Parliament upon a people not represented in the House of Commons is absolutely irreconcilable with their rights; that no man can justly take the

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[1] *Franklin before Committee of Commons*, Works, IV, p. 190.

[2] Franklin, *Testimony before the House of Commons.*

[3] Wells, *Life of Samuel Adams*, Vol. I, p. 45.

[4] It has been claimed that the "alarm bell" was sounded in Virginia by the Resolutions of Patrick Henry in the Burgesses to which I subsequently refer. These followed Adams' instructions a full year, though Henry's Resolutions seem to have been independent of the action of Massachusetts and were more widely published. Henry claimed that his Resolutions in the Burgesses, May, 1765, formed "the first opposition to the Stamp Act." For a clear presentation of this matter see Wells' *Life of Samuel Adams*, Vol. I, p. 45 et seq.

property of another without his consent,—upon which original principle the right of representation in the body levying the taxes, one of the main pillars of the English Constitution, is evidently founded.[1] This Massachusetts declaration is the earliest formal assertion of the American idea,—the idea upon which was based the American Revolution. It was not a new idea, certainly. The people had always been used to it in the practical operation of their governments. But an urgent occasion had arisen for its assertion, and our fathers proceeded to formulate a theory of the constitution for the defense of their rights. That this idea of the constitution had long been in fact a part of the American faith is seen in this, that upon the arrival of the Stamp Act in America every Assembly on the continent came to resolutions against the right of Parliament to impose taxes upon the people without their consent. The popular opposition excited in America by the Stamp Act is familiar. The Assemblies of the various colonies after the manner of Massachusetts were quick to put themselves on record in setting forth what seemed to them the legal and constitutional limits of the power of Parliament within the colonies. This keynote of organized colonial resistance was renewed independently by Virginia when she asserted in a series of resolutions that the colonists "were entitled to all the privileges and liberties of natural born subjects; and that the General Assembly of this colony have the only and sole exclusive right and power to lay taxes and impositions upon the inhabitants of this colony; and that every attempt to vest such power in any person or persons whatsoever, other than the General Assembly aforesaid, has a manifest tendency to destroy British as well as American freedom; that the taxation of the people by themselves, or by persons chosen to represent them, is the distinguishing characteristic of British freedom, without which the ancient constitution can not subsist."[2] The

[1] *Proceedings in Massachusetts Bay*, Franklin's Works, Vol. IV, p. 469.

[2] A copy of these Resolutions may be found in Tyler's *Patrick Henry*, p. 62, Frothingham's *Rise of the Republic*, p. 180.

case was fully drawn up for the colonies by the Stamp Act Congress of 1765. The Declaration of Rights published by this Congress is recognized by all parties as a remarkably able state paper.[1] Story regards it as the "best general summary of the rights and liberties of the colonies."[2] It was upon the basis of this Declaration by the Stamp Act Congress in 1765 that the Americans rested their case. The student should note carefully the significance of their assertions: They declared

1. The allegiance of the colonies to the British Crown and their loyal subordination to Parliament.

2. That they were entitled to all the inherent rights and liberties of natural born subjects.

3. That it was the undoubted right of Englishmen that no taxes be imposed upon them without their consent, given personally or through their representatives.

4. That the Colonial Assemblies can be their only representative bodies competent to tax them. "The only representatives of the people of the colonies are persons chosen therein by themselves, and that no taxes ever have been, or can be, constitutionally imposed upon them, but by their respective legislatures; that all supplies to the Crown being free gifts of the people, it is unreasonable and inconsistent with the principles and spirit of the British Constitution for the people of Great Britain to grant to His Majesty the property of the colonists."

5. That trial by jury was an inherent and invaluable right.[3]

6. "That there is a material distinction in reason and sound policy between the necessary exercise of Parliamentary jurisdiction in general acts for the amendment of the common law and the regulation of trade and commerce throughout the whole Empire, and the exercise of that jurisdiction by imposing taxes on the colonies."

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[1] Lecky, Vol. III, p. 357. [2] Commentaries on the Constitution.

[3] The Stamp Act provided that offenses against the Act should be cognizable in Courts of Admiralty.

It is necessary to understand this "material distinction" in order to understand the constitutional position of the Americans on the question of taxation. This was the distinction, now first formulated in theory by the colonists, *between internal and external taxation.* Congress had jurisdiction, the Stamp Act Congress conceded, in case of new legislation for the amendment of the common law; she had jurisdiction in the regulation of commerce throughout the Empire; the distinction between her jurisdiction for these purposes and her jurisdiction for imposing taxes within the colonies was the distinction now asserted by the Americans, and it was the fundamental constitutional distinction of the American Revolution. Was it a distinction without a difference in fact or principle?

The colonists conceded to Parliament the right to rule the Empire and they acknowledged, they were, indeed, glad to claim, that they were part of the Empire. But determining the imperial commercial system was one thing; raising revenue was another. Regulating their trade was a means of promoting the welfare of the Empire against the rest of the world. It would enable Englishmen to beat the Dutch, or the Spaniards, or the French, and for this the colonists were willing, like loyal Englishmen, to have their trade restrained and their manufactures repressed, if need be; for this they were willing to bear burdens, to suffer, and to pay. In these trade laws taxing was a mere incident; the purpose of the laws was not to tax, but to promote and regulate English trade, to legislate for the British Empire, to adopt a policy of state. But domestic taxation and administration are the concern of the people of the province in question. The only taxing power which the colonists had ever known were the Colonial Assemblies in which they were represented. Considered as a policy or system of revenue the Stamp Act was a departure from all former policies and systems. Domestic taxation through elective representatives,—this had been a fundamental fact, if not a principle, of the English speaking people, since Magna Charta; it is the basic and precedent

principle of home rule and local self-government in the States to-day. The Stamp Act, therefore, opened a new principle. For the first time in English history a bill had passed Parliament granting duties to the King in the colonies; and "there began," says Burke, "the second period of the policy of this country with regard to the colonies."

Before this dispute arose the authority of Parliament to make laws for America had never been questioned. That authority was allowed to be valid in all matters except such as involved internal taxes.[1] The colonists were always jealous of their liberties and they were always quick to vindicate them when violated. They had long believed and insisted in repeated instances, that their liberties implied that a large sphere of government—the whole of domestic taxation and administration—were, and should be, sacredly reserved by their charters to their Provincial Assemblies. States rights were very early a part of the American political faith. These inviolable rights were claimed while the States were yet colonies and provinces. Regard for these rights were very deeply imbedded in the colonial mind. Nothing is more clearly observed by the student of history, no lesson is more important to statesmanship, than the necessity of wisdom in government in showing regard to prevailing and established opinions among the people to be governed. Franklin reminded the ministry of this important truth in discussing for the English ruling classes the causes of American discontent. "It was well known," says Franklin, "that the colonists universally were of opinion that no money could be levied from English subjects but by their own consent, given by themselves or their chosen representatives; that, therefore, whatever money was to be raised from the people of the colonies, must first be granted by their assemblies, as the money raised in Britain is first to be granted by the House of Commons; that this right of granting their own

[1] *Franklin before Committee of Commons*, Works, IV, p. 169.

money was essential to English liberty; and that if any man or body of men, in which they had no representative of their choosing, could tax them at pleasure, they could not be said to have any property, anything they could call their own.[1] The process of raising revenues in the colonies before 1763, had been by requisition. The Crown made requisitions through the Governor or Secretary of State for the colonies and these were accustomed to grant their own money voluntarily and amply, whenever the Crown by its servants came into the Assemblies and demanded aids. Franklin believed that this old constitutional way of raising money in the colonies was still sufficient and that the colonies would respond to all demands for fair and reasonable aids. Americans therefore held the Stamp Act to be unnecessary because the colonies had ever been ready to make voluntary grants; they held it to be unjust because it violated the rights and customs of natural born subjects. It is well to emphasize what Gadsden was strenuous in urging upon the Congress of 1765, that the Americans based their claims not upon their charters, not on the rights and immunities guaranteed in these documents, but rather upon the common rights of Englishmen. If the colonies had been left free to grant or refuse a revenue as they deemed fit, the probability is that they would have refused, though Franklin thought otherwise. It was a feeling of certainty as to this refusal which most influenced the ministry in adopting the policy of forcible taxation. But the freedom to refuse was a right which no one thought of denying to the Commons of England. This invaluable right of the Commons, a right which had been repeatedly defended in arms since Magna Charta, pertained to those Englishmen, and to those only, whose representative body the Commons was. If this right of the natural born citizens of England was to be enjoyed by the Englishmen in America it could be done only by saving their colonial assemblies the right freely to give or refuse aids demanded by the Crown.

[1] Franklin's Works, Vol. IV, p. 244.

This theory of the Americans involved in the distinction between internal and external taxes was not merely raised up for the occasion. It had been the opinion and feeling of America before 1763. Franklin testified before a Committee of the Commons that he had never heard any objection to the right of laying duties to regulate commerce, but a right to lay internal taxes was never supposed to be in Parliament; it was the opinion of every one that Americans could not be taxed by a body in which they were not represented. True, they had never formulated the distinction. It takes an occasion to bring out from an Englishman an attempt at an abstract definition or declaration. The attempt to tax America brought out the resolutions of Assemblies declaring this distinction. When Franklin was asked before the Committee of the Commons whether he could show any difference between the two taxes, he replied that the difference was very real and very great. "An *external* tax is a duty laid on commodities; that duty is added to the first cost and, when it is offered to sale makes a part of the price. If the people do not like it at that price they refuse it; they are not obliged to pay it. But an *internal* tax is forced from the people without their consent, if not laid by their own representatives. The Stamp Act says, we shall have no commerce, make no exchange of property with each other, neither purchase, nor grant, nor recover debts; we shall neither marry nor make our wills, unless we pay such and such sums; and thus it is intended to extort our money from us or ruin us by the consequences of refusing to pay it.[1] When it was suggested that a duty might be levied upon the necessaries of life and thus extort by an external tax the money of the colonists, Franklin replied that the Americans if they desired could easily do without English imports.

It is true that the Americans could not in the abstract definition, in *theory*, draw a clear line of demarcation between

[1] Franklin's Works, IV, p. 174.

external and internal taxes. It could be said with a show of truth that, since the tariff acted clearly as a tax the distinction between the two kinds of taxes was without a real basis in fact. Metaphysical reasoning might make it appear that one kind of tax shaded into the other, nevertheless there was a distinction both in practice and in principle, a distinction which was not to be misunderstood and was not to be avoided. This distinction, as defined by Franklin, was sustained by Burke. *External taxation*, which had always been conceded, was not, he says, "a distinction of geography but of policy; it is a power for regulating trade, and not for supporting establishments. The distinction which is as nothing with regard to right is of most weighty consideration in practice. . . . . Be content to bind America by laws of trade; you have always done it. Let this be your reason for binding their trade. Do not burden them by taxes; you were not used to do so from the beginning. Let this be your reason for not taxing them. These are the arguments of States and Kingdoms. Leave the rest to the schools."[1]

It is well known that Burke argued the question merely from the standpoint of expediency. With him it was a question of policy not of right. He had very little use for abstract principles in politics. He was not examining whether voting away a man's money was a power reserved out of the general trust of government; or whether the right of taxation was in principle necessarily involved in the general principle of legislation and was therefore inseparable from the supreme power in the Empire. He was not seeking to determine a question of constitutional law; he was for restoring tranquillity. "The question with me is," he says, "not whether you have a right to render your people miserable; but whether it is not your interest to make them happy. It is not what a lawyer tells me I may do; but what humanity, reason and justice tell me

[1] *Speech on Taxation*, Payne's Select Works of Burke, Vol. I, p. 153-4.

I ought to do."[1] Burke would have recalled the commons to the old policy and to original principles in the colonial system,—that of regulating trade while leaving the colonies "every characteristic of a free people in all their domestic concerns." He held that it was not till the scheme of taxation arose and was revived again after the repeal of the Stamp Act, which filled the minds of the colonists with fears and apprehensions,—it was not until then that they quarreled with the old taxes as well as the new; it was not until then that they questioned even the legislative power of Parliament.[2]

Although Burke in his two great speeches on the Revolution based his opposition to the ministry and his plea for the colonies chiefly on the question of expediency, he could not altogether avoid the question of constitutional right. The old constitutional principle found defense even from Burke. He recognized that the great contests for freedom among the English people were "from the earliest times chiefly upon the question of taxing." In speaking of the great and vital question of taxation he asserted that the constitutional lawyers, both English and American, who were defending the American idea in our revolution were but defending the "excellence of the English Constitution." These, he says, "not only found it necessary to insist on the privilege of granting money as a dry point of fact, and to prove that the right had been acknowledged in ancient parchments, but they went further. They attempted to show, and they succeeded, that in theory it ought to be so, from the particular nature of a House of Commons. They took infinite pains to inculcate as a fundamental principle that in all monarchies the people must, in effect, themselves mediately or immediately, possess the power

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[1] *Speech on Conciliation with America*, Payne's Works of Burke, Vol. I, 196.
[2] *Speech on Taxation.*

The two speeches of Burke, on *American Taxation* and *Conciliation with America* are a very valuable source for a study of the Causes of the Revolution

of granting their own money, or no shadow of liberty can subsist. The colonies draw from you as with their life blood these ideas and principles."[1] We see, then, that even in Burke's opinion, after all, it was not merely a question of expediency. There were "ideas" and "principles" and convictions, back of the contest. "The feelings of the colonies," he says elsewhere, "were formerly the feelings of Great Britain. Theirs were formerly the feelings of Mr. Hampden when called upon for the payment of twenty shillings. Would twenty shillings have ruined Mr. Hampden's fortune? No! but the payment of half twenty shillings, on the principle it was demanded would have made him a slave. It is the weight of that preamble[2] not the weight of the duty that the Americans are unable and unwilling to bear."[3]

Pitt based his opposition to the Stamp Act and Parliamentary taxation upon different grounds. He denied, as boldly as any American, the constitutional right of Parliament to tax the colonies:

"This Kingdom has no right to lay a tax upon the colonies. At the same time I assert the authority of this Kingdom over the colonies to be sovereign and supreme in every circumstance of government and legislation whatsoever. They are the subjects of this Kingdom, equally entitled with yourselves to all the peculiar privileges of Englishmen, equally bound by its laws, equally participating in the constitution of this free country. Americans are the sons not the bastards of England. Taxation is no part of the governing, or legislative power. Taxes are a gift, a grant of the Commons alone. In *legislation* the three estates of the realm are alike concerned. A *tax* is of the Commons alone; only the concurrence of the peers and the Crown is necessary to clothe it with the form of law.

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[1] *Speech on Conciliation with America.*

[2] That is, the principle asserted.

[3] *Speech on American Taxation*, Vol. I, p. 105, Payne's Works of Burke.

The distinction between legislation and taxation is essentially necessary to liberty."[1]

Pitt then proceeded to acknowledge, more clearly and boldly, if possible, the American distinction: "There is a plain distinction between taxes levied for the purposes of revenue and duties imposed for the regulation of trade for the accommodation of the subject, though in the consequences some revenue may incidentally arise. . . . Let the sovereign authority of this country over the colonies be asserted in as strong terms as can be devised, and be made to extend to every point of legislation whatsoever; that we may bind their trade, confine their manufactures, and exercise every power whatsoever, except that of taking their money out of their pockets without their consent."[2]

Lord Camden also asserted in Parliament that taxation was not included in the general right of legislation, that "taxation and representation were inseparable."

It was urged by the party of the ministry that these arguments were pure theory and were not found to be operative in fact. Birmingham and Sheffield and Manchester, English centres of population were not more represented in Parliament than Boston and Philadelphia, yet these centres were the heaviest tax-paying districts in England. A representative in the Commons was not supposed, on the true theory of representative government, to represent merely the district which sends him up, but he stands as a representative and legislator for the Empire.

Such fallacy and sophistry were easily detected and exposed. All the "representatives of the Empire" were from Great Britain, having their commercial and property interests there, and by this convenient theory these were to be allowed the exclusive right of disposing of the property of colonists 3,000 miles away. That certain important English interests had no

[1] Goodrich's *British Eloquence*, Speech of Pitt.
[2] Goodrich's *British Eloquence.*

representatives in Parliament was to the shame not to the credit of England; it was due to her deformed and corrupt electorate. Burke might well ask in speaking of the colonies, "When this child of ours wishes to assimilate to its parent, and to reflect with a true filial resemblance the beauteous countenance of British liberty, are we to turn to them the shameful parts of our constitution? Are we to give them our weakness for their strength? Our opprobrium for their glory?"[1]

It is very true that the American principle now asserted in the expression "no taxation without representation," would not bear, as Lecky says, "a severe and philosophical examination." Many practical inconsistencies could be urged against it. As an abstract political principle it could not be said that the English people before our Revolution had ever pretended to apply it fully in the state, and both the commonwealths, England and America, have violated it ever since. It was never asserted as a principle *a priori*. It did not have its origin in political speculation. It is found to have been a fact with English freemen very early in English history. Far back under feudal conditions the Barons claimed for the nation the right, and the King conceded it, that in questions concerning the assessment of aids a council of the realm shall be summoned whose consent should be necessary to any new imposition.[2] It was not a question of accuracy in political reasoning; it was a question as to the custom of the realm. If there is a better definition any where of that custom than that there shall be no taxation without consent given in person or through representatives, we have not been able to discover it. Political principle is often but another name for long standing usage. This principle had been recognized by the English people on at least four great and solemn historic occasions and usage had confirmed their faith in it. 1. In 1215, when the Barons forced the charter from John, in which

[1] *American Taxation.* [2] Magna Charta.

it was agreed, and guaranteed by the sovereign power of the state, that aids should be fixed and certain and that a common council of the realm should be summoned and consulted upon their imposition. 2. In 1297, in the *Confirmatio Chartarum* under Edward I, and in the Statute *De Tallagio non Concedendo*, ever since which time no taxation without consent has been an admitted principle in the constitution.[1] 3. In 1628, in the Petition of Right under Charles I, at which time this principle was again solemnly asserted. 4. In the "glorious revolution" of 1688, when the nation in assembly again declared its faith that the sovereign power of taxation was to be exercised only by the consent of the representative Commons house of Parliament; that is, by the consent of the representatives of those who were to pay. It may be true that by "severe accuracy of definition, by refinement and precision of reasoning, and by the letter of the law" it was impossible to prove that there really was any distinction between taxing and other legislative acts.[2] But by the constitutional traditions and usage of the English people such a distinction was clearly recognized. On this account Mr. Lecky says, with great fairness and force, that "the Stamp Act, although it was by no means as unjust or as unreasonable as has been alleged, did unquestionably infringe upon a principle which the English race both at home and abroad have always regarded with peculiar jealousy. The doctrine that taxation and representation are in free nations inseparably connected, that constitutional government is closely connected with the rights of property, and that no people can be legitimately taxed except by themselves or their representatives, lay at the very root of the English conception of political liberty."[3]

The Stamp Act was repealed the year following its enactment. Accompanying the repeal,—in a measure the condition

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[1] Taswell-Langmead, *Constitutional History of England*, p. 271.
[2] Lecky's *England in the Eighteenth Century*, Vol. III, pp. 353, 354.
[3] Lecky's *England in the Eighteenth Century*, Vol. III, p. 353.

on which repeal was secured,—the Declaratory Act was passed. This Act asserted the *right* of Parliamentary taxation in the colonies; that "Parliament has power to bind the colonies in all cases whatsoever." The ministry had surrendered their measure but not their principle. The repeal however, hushed popular clamor and opposition. John Adams said that the people would have very little regard for the mere empty declaration of right which was never to be exercised. Dr. Franklin affirmed before the Commons that the resolutions of a right to tax would give very little concern if they are never attempted to be carried into practice. In view of assertions like these and the absence of public objections in America to the Declaratory Act, the motive of the American contention has been impeached. If it were principle and not pence they were contending for, it has been asked, why did the colonists not raise vigorous objection to the Declaratory Act, which solemnly affirmed the principle which they denied? Was it only *paying* they objected to?

The importance of the Declaratory Act has not been fully estimated. As a matter to excite resistance it was not formidable. Protest against the principle it asserted had already been made. It is not true that the Americans had no concern over the re-assertion of the principle. It was constantly in their minds. They regarded it as a continual menace to their constitutional liberties. To the degree that they were reminded of it by its practical application in overt acts of legislation they met it firmly by overt acts of resistance. The Declaratory Act was an index to the irrepressible nature of the controversy. Each party had published its platform. One affirmed and the other denied the right of Parliamentary taxation, and neither party would retract. Resistance and separation were, upon that basis, but a question of time and strength.

It is not the purpose of this monograph to trace the progress of the Revolutionary movement. The mode and measure of colonial resistance are familiar. When Townshend came to power in Parliament in 1767, he took occasion to express

contempt for the American distinction between internal and external taxation. He then proceeded to carry three measures in Parliament on the line of the Declaratory Act. First, urged on by the opposition, he proceeded to punish New York, for her disregard of the Quartering Act in refusing to make provision for the troops, by suspending her Assembly and denying royal sanction to any law until the terms of the objectional act should be complied with. Franklin interpreted the temper of this act to be: "Obey implicitly laws made by Parliament to raise money on you without your consent or you shall enjoy no rights and privileges at all."[1] By a second act of Townshend's ministry a Board of Commissioners was created to execute the Laws of Trade. By a third the taxing policy was resumed.[2]

This commercial taxation, on glass, lead, painters' colors, paper and tea, was to be collected by import duties. It was thus cleverly arranged by Townshend to observe the American distinction in letter while he violated it in spirit. But his tax was clearly a means of supply not an instrument of Empire, and he should have foreseen that it, also, would have been resisted by the Americans. During the seven years of "peaceful resistance" by America, occurred the aggravating acts of violence in the colonies which provoked Parliament to coercion. The agitation by the American press and speakers, the policy of non-importation in respect to the goods under tax, the "committees of inter-colonial correspondence," these all fanned the flame of opposition and did nothing to secure concession and favor from the party in power. Massachusetts was commanded to rescind her circular letter and upon her refusal to do so her Assembly was dissolved. It is seen, from events like these, that the breach was widening. It became irreparable by the unwise and unfortunate acts of Parliamentary coercion.

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[1] Franklin's Works, IV, p. 247. [2] Lecky, Vol. III, p. 383.

BILLS

Four notable acts in the attempt of Parliament at the peaceful coercion of the colonies must be brought within the scope of this study, though only a brief reference can be given to each of them. They have been called the "Four Intolerable Measures."

The *Boston Port Bill*, of 1774, closed the port of Boston to the importation and exportation of all goods except food and fuel. It was intended to punish Boston for her active and persistent opposition to Parliament, by a virtual destruction of her trade. Her custom house was removed to Salem and English men-of-war were to maintain the blockade. Boston was to continue under the ban till compensation was made to the East India Company for the tea which had been destroyed, and the Crown was satisfied that trade for the future would safely be carried on in Boston, that property would be protected, laws obeyed and duties paid.

The *Massachusetts Bill*, the second act calculated to excite a hotter anger and resentment in Massachusetts, and apprehension throughout the colonies, was passed the same year. It was a virtual revocation of the charter received by the colony in 1691. The General Assembly was left untouched but the upper chamber, hitherto elected by the Assembly, was now to be appointed by the Crown. The executive power was greatly increased and was no longer to emanate from the people as heretofore. Instead, the judges, magistrates and sheriffs were to be appointed by the royal governor, whose appointments were to be revocable at pleasure. Juries were to be no longer elective but were to be summoned by the royal Sheriff. The right of public meeting was to be abridged,—a most serious interference with the rights and privileges of the people. None but election meetings were to be held and no subject was to be discussed except by the permission of the Governor.[1] Such an act was calculated to bring consternation to every colony in America. Every colony was brought face to face with the

[1] Lecky.

grave question whether or not it really had any chartered rights, or whether its whole representative system existed only by the indulgence of Parliament.

The *Transportation Bill* was the third one of the intolerable measures which led to the final resistance in arms. It provided that any one accused of a capital crime committed while in aid of the government—in helping magistrates to suppress tumult and riot—should be tried in England or in some other colony than that wherein the crime was committed. This denied the right of trial by jury on the spot, in the vicinity of the crime, a time-honored right and usage among Englishmen. The unfriendly feeling in Massachusetts toward the soldiers and the officers of the Crown, seen in the so-called "Boston Massacre" and other hostile demonstrations, was the defense for this measure. To the Englishman it appeared merely like a provision for a change of venue from a province where a fair trial could hardly be expected. In commenting upon the Transportation Bill, Lecky says: "The conduct of the Boston judges and of the Boston jury in the trial of Captain Preston and his soldiers, had redounded to their immortal honor; but government was resolved that no such risk should be again incurred, and that soldiers who were brought to trial for enforcing the law against the inhabitants of Boston should never again be tried by a Boston jury."[1] The inference of the Act seemed to be ill founded. The reasoning seemed to be that the people of Boston having once administered justice in a notable case in the face of prejudice and provocation, deserved a general act questioning the integrity of her juries and denying the disposition of her people to do justice.

Against these three objectionable measures the Province of Massachusetts protested, asserting that by the first "the property of unoffending thousands is arbitrarily taken away for the act of a few individuals; by the second our chartered

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[1] *England in the Eighteenth Century*, Vol. III.

liberties are annihilated; by the third our lives may be destroyed with impunity."

The *Quebec Act* was the fourth measure which was intolerable to the colonists. It was passed in 1774. The purport of the act, in defining the limits of Quebec, was to extend that province to the Ohio river under absolute rule, French law, and the Catholic religion. It virtually confined the free democratic government of New England to the region east of the Alleghanies, interfered with the natural westward expansion of the colonies, as these were hereafter to find upon their western frontier a state governed upon despotic principles under Catholic establishment. The act greatly offended the religious feelings, instincts, and prejudices of the Puritan. "With the exception of some parts of Scotland," says Lecky, "no portion of the British Islands was animated with the religious fervor of New England, and no sketch of the American Revolution is adequate which does not take this influence into account.[1]

My sketch will seem inadequate in that, among other defects and omissions, I have not attempted an appreciation of the deep underlying moral causes of which the Revolution has appeared to many but the natural outcome. The measures and movements which I have attempted to estimate and define are regarded as but the flower and fruitage of moral influences whose roots are deeper in social ideas and forces than I have ventured to examine. These, however, are for the inquiry of the philosopher rather than the historian. But every historical student of the American Revolution is expected to understand that the revolt of the colonies and the movement for independence was the result of a social and political character in a people which was the result of generations of experience and training. Burke pointed out, while the Revolution was in progress, that the Americans' love of liberty, their religion, their education, their knowledge of English law and institutions,

[1] Lecky's *England*, Vol. III, p. 484.

and their training in English political life, were underlying and potent influences in the Revolution. There were other influences than these. Streams of influence, found in religious and political life, converged toward the American Revolution from all the Puritan and Protestant countries of Europe, from the republican institutions and usage of the Netherlands, from the Calvinists and Huguenots of Switzerland and France, from the Presbyterianism of the Scotch-Irish, as well as from the dissenting religionists of all classes in England. "The explanation of the Revolution is not to be found merely in English precedents."[1] When we attempt to estimate the unseen and silent forces in national and religious character which have contributed to the American Revolution we find ourselves dealing with numerous social energies too general, subtile, and pervasive to be adequately measured. But no intelligent reader will forget that an upheaval so general and spontaneous, and seemingly so inevitable, is not to be explained by so simple and isolated a fact as the imposition of a tax. That would be like accounting for the tremendous revolution of France, as an able writer has done, by the fact of a deficit in her treasury. The destiny of nations is not changed by isolated facts. Rather the great movements of history have been the result of moral and spiritual forces which, gathering for centuries, have needed only favorable circumstances for the manifestation of their power.[2]

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[1] Mr. Douglas Campbell in his *Puritans in England, Holland and America*, one of the most noteworthy historical works of our times, presents very forcibly and fully the various un-English elements contributing to the American Revolution. The student should consult his pages.

[2] Balch's *The French in America* has a suggestive chapter on the moral influences in the Revolutionary War.

NOTES.

I.

LIST OF AUTHORITIES AND REFERENCES.

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a. Knox' *Controversy between the Colonies and the Mother Country.* The best presentation of the English side of the controversy.

b. Samuel Johnson's *Taxation No Tyranny.*

c. Tucker's *Four Tracts on Our Relation to the Colonies.*

d. Burke's Speeches: On *Conciliation with America,* and *American Taxation. Works,* Payne's Edition, Vol. I.

e. Pitt's *Speech on the Repeal of the Stamp Act.* See Goodrich's *British Eloquence.*

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a. Adams, John, *Works,* with Life, notes, etc., by C. F. Adams. 10 vols. (Little, Brown & Co.)

b. Franklin, *Works,* Vol. IV, especially on *Causes of American Discontents, Examination before the House of Commons, How to Reduce an Empire, Letter on American Gratitude.*

c. Otis' *Rights of the Colonies,* and speech on *Writs of Assistance.*

See (1) Force's *American Archives,* Vol. I, 4th Series.

(2) Tudor's *Life of Otis.*

(3) John Adams' Letter to Tudor, *Niles Register,* Vol. XIV, p. 139.

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f. Paine's *Common Sense.*

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3. Lecky's *England in the Eighteenth Century,* Vol. III. Chapter on *America.* The most valuable exposition of the progress of the Revolution.

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15. Green's *History of the English People,* Vol. IV. Chapter on "England and her Empire."
16. Seeley's *Expansion of England.* Chapter on "The Old Colonial System."
17. Sabine's *Royalists of the Revolution.*
18. Wells' *Life of Samuel Adams.*
19. Tyler's *Life of Patrick Henry.*
20. Hart's *Formation of the Union.* (Epochs of American History.)
21. Story's *Commentaries on the Constitution of the United States.*
22. Marshall's *Life of Washington.*
23. Parton's *Life of Franklin.*

II.

DECLARATION OF RIGHTS BY CONGRESS OF 1774.

On the 14th of October, this congress published to the world the following Declaration: "That the inhabitants of the English colonies in North America, by the immutable laws of nature, the principles of the English constitution, and the several charters or compacts, have the following rights:

1. "That they are entitled to life, liberty, and property; and they have never ceded to any foreign power whatever, a right to dispose of either, without their consent."

2. "That our ancestors, who first settled these colonies, were, at the time of their emigration from the mother country, entitled to all the rights, liberties, and immunities of free and natural born subjects, within the realm of England."

3. "That by such emigration, they by no means forfeited, surrendered or lost, any of those rights, but that they were, and their descendants now are, entitled to the exercise and enjoyment of all such of them, as their local and other circumstances, enable them to exercise and enjoy."

4. "That the foundation of English liberty, and of all free governments, is a right in the people to participate in their legislative council: and, as the English colonists are not represented, and from their local and other circumstances, cannot properly be represented in the British parliament, they are entitled to a free and *exclusive power of legislation*, in their several provincial legislatures, where their right of representation can alone be preserved, in all cases of *taxation and internal policy*, subject only to the negative of their sovereign, in such manner as has been heretofore used and accustomed. But from the *necessity* of the case, and a regard to the mutual interest of both countries, we cheerfully consent, to the operation of such acts of the British parliament, as are *bona fide*, restrained to the regulation of our external commerce, for the purpose of securing the commercial advantages of the whole empire to the mother country, and the commercial benefits of its respective members; excluding every idea of taxation internal or external, for raising a *revenue*, on the subjects in America, without their consent."

5. "That the respective colonies, are entitled to the common law of England, and more especially, to the great and inestimable privilege of being tried by their peers of the vicinity, according to the course of that law."

6. "That they are entitled, to the benefit of such of the English statutes, as existed at the time of their colonization; and which they have, by experience, respectively found, to be applicable to their several local and other circumstances."

7. "That these, his majesty's colonies, are likewise entitled to all the immunities and privileges granted and confirmed to them, by royal charters, or secured by their several codes of provincial laws."

8. "That they have a right peaceably to assemble, consider of their grievances, and petition the king; and that all prosecutions, prohibitory proclamations and commitments for the same, are illegal."

9. "That the keeping a standing army in these colonies, in times of peace, without the consent of the legislature of that colony, in which such army is kept, is against law."

10. "It is indispensably necessary to good government, and rendered essential by the English constitution, that the constituent branches of the legislature, be independent of each other; that, therefore, the exercise of legislative power, in several colonies, by a council appointed during pleasure, by the crown, is unconstitutional, dangerous, and destructive to the freedom of American legislation."

III.

ADDRESS TO THE PEOPLE OF GREAT BRITAIN, CONGRESS OF 1774.

Friends and fellow subjects.—

When a nation, led to greatness by the hand of liberty, and possessed of all the glory that heroism, munificence and humanity can bestow, descends to the ungrateful task of forging chains for her friends and children, and instead of giving support to freedom, turns advocate for slavery and oppression, there is reason to suspect she has either ceased to be virtuous, or been extremely negligent in the appointment of her rulers.

In almost every age, in repeated conflicts, in long and bloody wars, as well civil as foreign, against many and powerful nations, against the open assaults of enemies, and the more dangerous treachery of friends, have the inhabitants of your island, your great and glorious ancestors, maintained their independence, and transmitted the rights of men, and the blessings of liberty, to you their posterity.

Be not surprised, therefore, that we who are descended from the same common ancestors; that we, whose forefathers participated in all the rights, the liberties, and the constitution you so justly boast of, and who have carefully conveyed the same fair inheritance to us, guaranteed by the plighted faith of government and the solemn compacts with British sovereigns, should refuse to surrender them to men who found their claims on no principles of reason, and who prosecute them with a design, that by having our lives and property in their power, they may, with the greatest facility, enslave you.

Know then, that we consider ourselves, and do insist that we are and ought to be, as free as our fellow subjects in Britain, and that no power on earth has a right to take our property from us, without our consent.

Are not the proprietors of the soil of Great Britain, lords of their own property? Can it be taken from them, without their consent? Will they yield it to the arbitrary disposal of any man, or number of men whatever? You know they will not. Why then are the proprietors of the soil of America less lords of their property than you are of yours? Or why should they submit it to the disposal of your parliament or any other parliament, or council in the world, not of their election?

Reason looks with indignation on such distinctions, and freemen can never perceive their propriety. . . . Such declarations we consider as heresies in English politics, and which can no more operate to deprive us of our property, than the interdicts of the pope can divest kings of sceptres which the laws of the land and the voice of the people have placed in their hands. . . . We call upon you yourselves, to witness our loyalty and attachment to the common interest of the whole empire; did we not, in

the last war, add all the strength of this vast continent to the force which repelled our common enemy? Did we not leave our native shores, and meet disease and death, to promote the success of British arms in foreign climates? Did you not thank us for our zeal, and even reimburse us large sums of money, which, you confessed we had advanced beyond our proportion, and far beyond our abilities? You did. . . . Let justice and humanity cease to be the boast of your nation. Consult your history, examine your records of former transactions; nay, turn to the annals of the many arbitrary states and kingdoms that surround you, and shew us a single instance of men being condemned to suffer for imputed crimes, unheard, unquestioned, and without even the specious formality of a trial; and that, too, by laws made expressly for the purpose, and which had no existence at the time of the fact committed. If it be difficult to reconcile these proceedings to the genius and temper of your laws and constitution, the task will become more arduous, when we call upon our ministerial enemies to justify, not only condemning men untried, and by hearsay, but involving the innocent in one common punishment with the guilty, and for the act of 30 or 40, to bring poverty, distress and calamity, on 30,000 souls, and those not your enemies, but your friends, brethren and fellow-subjects. . . . Nor can we suppress our astonishment, that a British parliament should ever consent to establish in that country, a religion that has deluged your island in blood, and dispersed impiety, bigotry, persecution, murder, and rebellion through every part of the world. This being a true state of facts, let us beseech you to consider to what end they lead. Admit that the ministry, by the powers of Britain, and the aid of our Roman Catholic neighbors, should be able to carry the point of taxation, and reduce us to a state of perfect humiliation and slavery. Such an enterprise would doubtless make some addition to your national debt, which already presses down your liberties, and fills you with pensioners and placemen. We presume, also, that your commerce will somewhat be diminished. However, suppose you should prove victorious, in what condition will you then be? What advantages or what laurels will you reap from such a conquest? . . .

May not a ministry with the same armies enslave you?—It may be said, you will cease to pay them,—but remember the taxes from America, the wealth, and we may add the men, and particularly the Roman Catholics of this vast continent, will then be in the power of your enemies; nor will you have any reason to expect, that after making slaves of us, many among us should refuse to assist in reducing you to the same abject state. . . .

We believe there is yet much virtue, much justice, and much public spirit in the English nation.—To that justice we now appeal. You have been told that we are seditious, impatient of government, and desirous of independency. Be assured that these are not facts, but calumnies.—Permit us to be as free as yourselves, and we shall ever esteem a union with you, to be our greatest glory and our greatest happiness; we shall ever be ready

to contribute all in our power to the welfare of the empire; we shall consider your enemies as our enemies, and your interest as our own. . . .

But, if you are determined that your ministers shall wantonly sport with the rights of mankind—if neither the voice of justice, the dictates of the law, the principles of the constitution, or the suggestions of humanity, can restrain your hands from shedding human blood, in such an impious cause, we must then tell you, that we will never submit to be hewers of wood, or drawers of water for any ministry or nation in the world.

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